

Surface Transportation Board  
Case Control Unit  
Washington, D.C. 20423

ATTN: Kenneth Blodgett

STB Docket No. FD 30186 (Sub-No. 3)

December 1, 2004

Dear Mr. Blodgett:

I am submitting comments on the draft Supplemental Environmental Impact Statement for the Tongue River Railroad (TRR) Company, Inc. – Construction and Operation – Western Alignment; Tongue River III – Rosebud and Big Horn Counties, Montana. Please ensure that my comments are entered into the public record.

To begin with, I object strenuously to the basis for this document as stated on page 1-14: that this SEIS is tiered off two previous EISs (TRR I and TRR II) in order to “avoid unnecessarily redoing analysis that continues to be accurate and complete.” The first EIS was done in 1983 (with a final decision in 1985), and the second EIS was done in 1992 (with a final decision in 1996). During the past 20+ years, the data and information contained in these two documents has changed, and to rely upon this data and information for preparation of the current SEIS is to build a case upon a false, misleading, and inaccurate foundation.

The National Environmental Policy Act (NEPA) and the Council on Environmental Quality (CEQ) implementing regulations require an agency and decision maker to base a decision on objective, high-quality scientific analysis of impacts that the proposal may create (1500.1 (b)). This cannot be done by relying on inaccurate or incomplete information and biological inventories (which, in fact, have only covered isolated portions of the entire railroad route) that are 20+ years old. Additionally, I note at least two examples of where available data is not referenced or analyzed: the aquatic studies that have been done by the Montana Department of Environmental Quality (DEQ) on the Tongue River and the baseline water quality studies done as part of the process for setting the Tongue River TMDL (total maximum daily load).

While CEQ regulations encourage tiering (1502.2), the definition provided is to produce a programmatic EIS that addresses broad policy issues, followed by other site-specific EISs, each of which analyses site-specific impacts. An agency cannot substitute tiering for adequate analysis of impacts nor can an agency ignore overall greater impacts for an entire project in its site-specific EIS than were revealed earlier. In using the tiering approach, not only is the SEIS falsely based on outdated and inaccurate previous documents but the agency is using a piecemeal approach to the Tongue River Railroad project. NEPA and the CEQ regulations prohibit using a piecemeal approach (“Proposals or parts of proposals which are related to each other closely enough to be, in effect, a single course of action” must be evaluated in a single NEPA document (1502.4)). There has been no analysis of this project’s impacts as a whole on the Tongue River and Tongue River Valley. I strongly urge the STB to begin anew and complete one NEPA document for the entire Tongue River Railroad proposal that is based on updated and accurate scientific information.

One of the most egregious problems I find in this SEIS is its lack of analysis of the connected and cumulative actions in the Tongue River area, most importantly the development of the area’s coal

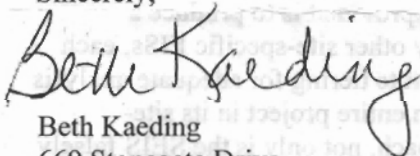
bed methane resources. An agency is required to analyze any proposal in consideration of other actions that are connected (1508.25) and are cumulative (1508.7, 1508.25 (a)(2)). While the SEIS mentions coal bed methane development in 6.5.2, there is absolutely no analysis of the cumulative impacts from simultaneous development and operation of these massive projects.

Because the Bureau of Land Management and the Montana DEQ approved the programmatic EIS for coal bed methane development (April and August 2003, respectively), this TRR SEIS is required to take that development into account. For example, the coal bed methane EIS concluded that that development would likely violate air quality standards for Class I and Class II airsheds; however, this SEIS states that the proposed railroad would have not significant impacts—how can that be with respect to cumulative impacts? Additionally, the SEIS does not analyze the impacts of sediment load in the Tongue River to fisheries and other aquatic life as well as irrigation operations in cumulative addition to the impact high-sodium coal bed methane wastewater will have on the Tongue River. What is the cumulative impact of roads associated with both of these projects to the spread of noxious weeds, fragmentation of wildlife habitat, and interruption of wildlife migration routes? What is the cumulative impact of these projects on the threatened bald eagle and the sage grouse? What is the cumulative impact of these projects on county infrastructure maintenance needs and county fire fighting services? What is the cumulative economic impact of these projects on local ranchers?

Finally, the decision by the STB that this project is “necessary” is not understandable to me. This project has been proposed, “refined,” modified, and redefined for more than 20 years, and yet not one mile of track has been laid along the previously approved rail route. Nor has the company made any effort to negotiate right-of-way leases with ranchers and other landowners along the approved route. It appears to me that this proposal is simply a highly speculative scheme. The impacts this project will have on the environment as well as the ranchers and citizens of the Tongue River Valley are significant and unnecessary. This is **not** a “necessary” project as existing Montana rail lines are sufficient for shipping coal to Midwestern markets.

Again, I strongly urge the STB to begin anew and complete one NEPA document for the entire Tongue River Railroad proposal that is based on updated and accurate scientific information **and** that the document consider and analyze the cumulative impacts of other approved and foreseeable development projects in the area of effect.

Sincerely,



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